

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

<u>STANDARD FIRE INSURANCE CO.,</u>)	
)	
Plaintiff,)	
v.)	CIVIL ACTION NO. 04-12244 GAO
)	
CROSBY YACHT YARD, INC. AND)	
OYSTER HARBORS MARINE, INC.,)	
)	
<u>Defendants.</u>)	

**DEFENDANT CROSBY YACHT YARD, INC.'S OPPOSITION TO PLAINTIFF
STANDARD FIRE INSURANCE COMPANY'S MOTION TO AMEND COMPLAINT**

NOW COMES the defendant Crosby Yacht Yard, Inc., by and through its undersigned attorneys, and opposes the plaintiff Standard Fire Insurance Company's Motion to Amend Complaint.

The Motion to Amend should be denied for the following reasons:

- (1) The fire which is the subject of this litigation undisputedly occurred on or about December 10, 2003.
- (2) The Motion to Amend seeks to add a new party, Paul Kaneb (hereinafter "Kaneb"), beyond the three year anniversary of the fire, December 10, 2006.
- (3) The claims of Kaneb as a party plaintiff, are clearly time-barred pursuant to the Statute of Limitations, 260 M.G.L.A. Section 2A.
- (4) There is no credible reason set forth in the plaintiff's motion explaining the delay in naming Kaneb as a party plaintiff.
- (5) The fact that Kaneb is admittedly one of the claimants listed in the original subrogation complaint filed by Standard Fire is not a basis for any kind of "relation back" argument alleged by Standard Fire. Plaintiff is seeking Kaneb to be added as a party. *See, F &*

D Tool Company, Inc., v. Sloan Valve Company, Inc., 2002 WL 31371963, 2002 U.S. Dist. LEXIS 20049 (D. Mass. 2002), (citing *Liberty Mutual Insurance Company v. National Consolidated Warehouses, Inc.*, 34 Mass. App. Ct. 293, 609 N.E.2d 1243 (1993)).

WHEREFORE defendant Crosby Yacht Yard Inc. prays that plaintiff Standard Fire Insurance Company's Motion to Amend be denied.

By its attorneys,

/s/ Seth S. Holbrook
Seth S. Holbrook, BBO# 237850
Holbrook & Murphy
238-240 Lewis Wharf
Boston, MA 02110
(617) 428-1151
holbrook_murphy@msn.com

Certificate of Service

I, Seth S. Holbrook, certify that I served defendant Crosby Yacht Yard, Inc.'s Opposition to Plaintiff's Motion to Amend by filing it with the Court's ECF/CMF system which will give notification electronically to all counsel of record, this 30th day of January, 2007.

/s/ Seth S. Holbrook